

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	
Request for Request of the Decision of the)	
Universal Service Administrator by)	
)	
Gardner Unified School District 231)	File No. SLD- 189138
Gardner, Kansas)	
)	
Federal-State Joint Board on)	CC Docket No. <u>96-45</u>
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: May 14, 2003

Released: May 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Gardner Unified School District 231 (Gardner USD), Gardner, Kansas, seeks review of an August 26, 2002 decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ For a review of decisions by SLD issued on or after August 13, 2001, appeals to the Commission must be filed within 60 days of the issuance of the SLD decision date.² Here, Gardner USD filed its appeal on December 12, 2002, after the 60-day period, in contravention of our rules. We therefore dismiss the appeal.

2. To the extent that Gardner USD additionally asks us to waive our rules in this instance, we deny its request.³ Gardner USD states that the previous person in charge of applying for discounts vacated his position in the spring of 2002 and that the position was not filled until November 2002, leaving Gardner USD insufficient time to file the necessary paperwork.⁴ Waiver is appropriate only if special circumstances warrant a deviation from the

¹ Letter from Ryan Martin, Gardner Unified School District 231, to Federal Communications Commission, filed December 12, 2002 (Request for Review); Letter from the School and Libraries Division, Universal Service Administrative Company to Doug Berg, Gardner Unified School District 231, dated August 26, 2002; 47 C.F.R. § 54.719(c).

² 47 C.F.R. § 54.720(b). See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 FCC Rcd 339 (rel. Dec. 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. Dec. 28, 2001 and Jan. 4, 2002).

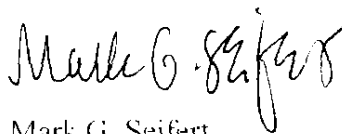
³ 47 C.F.R. § 54.720(b).

⁴ Request for Review.

general rule, and such deviation would better serve the public interest than strict adherence to the rule.⁵ Given the thousands of applications SLD processes each year, it is administratively necessary to place the burden of meeting deadlines on the applicants.⁶ As we have consistently held in the past, applicants are responsible for submitting their appeals in a timely manner and complying with program rules and procedures.⁷ Staffing problems do not relieve applicants of their responsibility to comply with the program's rules and procedures.⁸

3 ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Gardner Unified School District 231, Gardner, Kansas on December 12, 2002, IS DISMISSED, and the request to waive the 60-day time limit in which to file an appeal IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

⁵ 47 C.F.R. § 1.3; see *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁶ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Red 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8.

⁷ See, e.g., *Request for Review by St. Mary's Public Library, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.12-07-99.02000002, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Red 12936, para. 5 (Com. Car. Bur. 2001) (denying a waiver request to the extent it is requested due to misunderstanding of the program's rules).

⁸ See, e.g., *Request for Review by Danbury Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. NEC.471.04-13-00.31900001, CC Docket Nos. 96-45 and 97-21, Order, 16 FCC Red 10910 (Com. Car. Bur. 2001) (denying waiver request in case when employee responsible for filing failed to do so).